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Attorneys for Plaintiff
Michael Grecco Productions, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHAEL GRECCO
PRODUCTIONS, INC.,

Plaintiff,

v.

TIKTOK, INC.,

Defendant.

Civil Action No. 2:24-cv-04837-FLA-
MAR

**NOTICE OF MOTION AND
MOTION TO SUBSTITUTE
EXHIBIT A TO PLAINTIFF'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

(AGREED)

DATE: Friday, August 29, 2025

TIME: 1:30 P.m.

JUDGE: Fernando L. Aenlle-Rocha

1 PLEASE TAKE NOTICE that, Plaintiff Michael Grecco Productions, Inc.
2 (“Grecco”) respectfully moves the Court to substitute Exhibit A to Plaintiff’s
3 Motion for Partial Summary Judgment [D.E. 69-2, pp.6–61] and, in support
4 thereof, states as follows:

5 1. On August 22, 2025, Plaintiff filed its Motion for Partial Summary
6 Judgment with redactions. See D.E. 69.

7 2. Prior to the Motion for Partial Summary Judgment being filed, and in
8 accordance with the Protective Order [D.E. 62], the Parties discussed and agreed
9 to redact certain portions of the transcript of Defendant’s 30(b)(6) corporate
10 representative, Jemili Boutros.

11 3. In filing its Motion for Partial Summary Judgment with redactions,
12 Plaintiff inadvertently did not redact a page in Exhibit “A” to the Declaration of
13 Jonathan Alejandrino (the “Alejandrino Decl.”) that the Parties had agreed to
14 redact. See D.E. 69-2 (ID #1402).

15 4. Attached hereto as **Exhibit “A”** is the corrected Exhibit “A” with the
16 proper redactions.

17 5. Plaintiff respectfully requests that the Court permit it to substitute the
18 attached **Exhibit “A”** for the current version of Exhibit A to the Alejandrino Decl.
19 (pp. 6–61, ID# 1392–1447).
20

6. The requested relief is made in good faith. The relief being sought will neither unfairly prejudice Plaintiff or Defendant, nor cause undue delay.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order granting this motion and substituting the current Exhibit “A” to the Alejandrino Decl. for the **Exhibit “A”** attached hereto.

LOCAL RULE 7.3 CERTIFICATE

Before filing this Request, undersigned counsel conferred with counsel for Defendant (Connor J. Hansen, Esq.) who agreed to the requested relief.

Dated: August 25, 2025.

COPYCAT LEGAL PLLC

By: /s/ Lauren M. Hausman
Lauren M. Hausman, Esq.
Jonathan Alejandrino, Esq. (*pro hac vice*)
Attorneys for Plaintiff
Michael Grecco Productions, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will electronically serve all counsel of record.

/s/ Lauren M. Hausman
Lauren M. Hausman, Esq.

EXHIBIT “A”

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1	PLAINTIFF'S EXHIBITS		
2	NUMBER	DESCRIPTION	PAGE
3	Exhibit 1	Notice of Taking 30(b)(6) Deposition	8
4	Exhibit 2	Service Provider/Designated Agent Info	32
5	Exhibit 3	Copyright Infringement Notice 1/26/2024	50
6	Exhibit 4	Copyright Infringement Notice 3/20/2024	53
7	Exhibit 5	Copyright Infringement Notice 3/19/2024	55
8	Exhibit 6	Copyright Infringement Notice 3/19/2024	56
9	Exhibit 7	Copyright Infringement Notice 3/21/2024	57
10	Exhibit 8	Copyright Infringement Notice 3/27/2024	59
11	Exhibit 9	Copyright Infringement Notice 3/18/2024	60
12	Exhibit 10	Copyright Infringement Notice 3/6/2024	60
13	Exhibit 11	Copyright Infringement Notice 12/27/2023	62
14	Exhibit 12	Copyright Infringement Notice 2/21/2024	69
15	Exhibit 13	Copyright Infringement Notice 10/29/2023	70
16	Exhibit 14	Copyright Infringement Notice 11/6/2023	71
17	Exhibit 15	Copyright Infringement Notice 10/13/2023	72
18	Exhibit 16	Copyright Infringement Notice 3/12/2024	73
19	Exhibit 17	Copyright Infringement Notice 3/15/2024	74
20	Exhibit 18	Copyright Infringement Notice 10/13/2023	75
21	Exhibit 19	Copyright Infringement Notice 2/12/2024	75
22	Exhibit 20	Copyright Infringement Notice 11/17/2023	76
23	Exhibit 21	Copyright Infringement Notice 2/28/2024	77
24			
25	Cont'd		

Service Provider History:

Effective: January 31, 2025 to Present (Active)



Service Provider/Designated Agent Information	
Service Provider:	TikTok Inc. 5800 Bristol Parkway Suite 100 Culver City, CA 90230
Designated Agent:	TikTok Intellectual Property Team TikTok Inc. 5800 Bristol Pkwy Suite 100 Culver City, CA 90230 Phone: (213) 643-3698 Email: copyright@tiktok.com
Status:	Active
Effective:	January 31, 2025 to Present

Alternate Names

Search:

Tik Tok

TikTok

TikTok App

TikTok Shop

musical ly

musical.ly

musical.ly app

musically

musically app

www.tiktok.com

Showing 1 to 10 of 10 entries

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1 those terms that they agree to?

2 A Yes.

3 Q Does TikTok have sort of overbroad
4 standards or policies that guide what can be posted
5 on TikTok's platform?

6 A The question is generalization of
7 community guidelines?

8 Q Correct.

9 A So on TikTok, there are different
10 verticals of community guidelines that are
11 specified.

12 Q And if a video violates those guidelines,
13 how can that be reported?

14 A A user can report in-app or on the most
15 relevant Web form report so it gets to the proper
16 team for review.

17 Q If it's not a user, then it would be those
18 mechanisms you discussed earlier?

19 A Yes.

20 Q Is there any human review?

21 A Yes.

22 Q When does that occur?

23 A So human review happens when a video is
24 flagged by those strategy mechanisms I was referring
25 to earlier, as well as when someone, a human,

6 A I can speak to the IP side, but not for
7 the rest of the community guidelines, I would say.

Daughters Reporting, Inc.
Fort Lauderdale, Florida 954-755-6401

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■	[REDACTED]

1 of profile clicks.

2 Q Do they keep a record of views and likes
3 and clicks on a user's post or content?

4 A Yes.

5 Q I want to turn a little bit to the
6 monetization of users on TikTok.

7 Do any TikTok users, are they monetized or
8 make money from their content?

9 A Not all users can monetize from their
10 content. But ones that have been invited to or have
11 applied to what's called the Creator Program can
12 then monetize off their content.

13 Q And what's the criteria to be admitted
14 into the Creator Program?

15 A I'm not sure of all the criterias. I just
16 know one of them is specific to a number of video
17 views within 30 days.

18 Q And who is making the determination of
19 whether or not the user is admitted?

20 A I would say that's out of my scope of
21 knowledge.

22 Q When a user is admitted into the Creator
23 Program, is there a written agreement between them
24 and TikTok?

25 A There's another terms of service agreement

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1 that they have to sign.

2 Q And what are those terms?

3 A I'm not sure what those terms are.

4 Q And if a user is admitted into this
5 Creator Program, are their posts and content more
6 closely monitored?

7 A I don't know.

8 Q Is there a requirement that anything they
9 post or any content they upload requires approval
10 prior to it being uploaded?

11 A I don't know.

12 Q Of the 24 users that are identified in
13 this case, are you aware of any of them having a --
14 or being admitted into the Creator Program?

15 A Yes.

16 Q Which users?

17 A I'm not sure off the top of my head.

18 Q If I was to name the user, would that...

19 A No.

20 Q Are you aware of how many of them are
21 admitted into the Creator Fund?

22 A No.

23 Q So when a user is admitted into the
24 Creator Fund, does that mean that their content is
25 now monetized?

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1 A I'm not sure of the criteria. Whether all
2 of the criteria has to be met or some of it, I'm not
3 sure of those details.

4 Q Of the 24 users that are in this case,
5 would you say about half have been admitted into the
6 Creator Program?

7 A I truly don't know the answer to that.

8 Q Do you have, like, a ballpark idea of how
9 many?

10 A Not a number, just some of the 24.

11 Q Less than 10?

12 A I'm not sure.

13 Q Now, for this Creator Program and the
14 users that are able to monetize their content, how
15 is TikTok benefiting from this arrangement?

16 A I would say TikTok doesn't necessarily
17 benefit. I would say that the users who are able to
18 monetize off of their content are the ones who are
19 profiting themselves for doing that. TikTok doesn't
20 necessarily take a cut from those profits gained by
21 those creators.

22 Q How does TikTok make money off of people
23 uploading content?

24 A I would say, broadly speaking, from my
25 understanding, TikTok can make money from

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1 advertisements or brand partnerships, maybe through
2 TikTok Shop sales, but that's probably as much as I
3 know in terms of concepts of how the company can
4 make money.

5 Q Does TikTok make money only on users that
6 are admitted to the Creator Program?

7 A Your question is, does TikTok make money
8 from creators who make money from the Creator
9 Program?

10 Q Is it solely those creators?

11 A But TikTok doesn't take a profit from
12 their funds, so my answer would be no to that.

13 Q So TikTok makes a profit regardless of
14 whether the content is coming from a user admitted
15 into the Creator Program?

16 A TikTok generates their money from other
17 revenue streams. It's not from the creators who are
18 creating content and monetizing off of it.

19 Q So you mentioned the TikTok Shop.
20 Sometimes creators advertise products from the
21 TikTok Shop, correct?

22 A I would say there's more of an affiliate
23 program. I'm not sure about, like, the advertising
24 concept with that.

25 Q So in that instance where the creator has

2 A I don't think so.

4 A The For You feed that is?

6 A Yes, yes, yes.

9 A I couldn't tell you that.

21 BY MR. ALEJANDRINO:

23 A I don't know.

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■ [REDACTED] [REDACTED] [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]
■ ■ [REDACTED] [REDACTED]
■ ■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]

13 Q And you mentioned that takedown notice can
14 be submitted in-app or other ways.

15 What are the other ways that it can be
16 submitted besides in-app?

17 A It could be submitted through in-app,
18 through the desktop version for Copyright and
19 Trademark Notice and Takedowns. It can be submitted
20 if someone sent it to the Gmail inbox. I just don't
21 know what the e-mail is.

22 And the other way that it could be
23 submitted is through an internal database where we
24 have trusted partners who can submit those notice
25 and takedowns in that system.

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[REDACTED]

22 Q Okay. Just to confirm, that Gmail is the
23 copyright@tiktok.com?

24 A Correct.

25 [REDACTED]

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1 if I've seen this specific one to this user and
2 video ID, I can't address that. But the nature of
3 the document you're showing, I'm familiar with it.

4 Q What type of document is this?

5 A This looks to be a DMCA notice off the
6 bat. I don't know if there's more to scroll
7 through.

8 Q I'll give it a scroll.

9 A Yes. So this is -- how do I say this --
10 an e-mailed version versus a template that the Web
11 form and in-app reporting system has.

12 Q Can you see where this was -- what e-mail
13 this was addressed to?

14 A Copyright@tiktok.com.

15 Q And is that TikTok's designated DMCA
16 e-mail?

17 A Correct.

18 Q Can you see when this e-mail was dated?

19 A January 26th, 2024.

20 Q And are you aware of when this e-mail
21 would have been received?

22 A If the system was working correctly, we
23 would have received it on that date.

24 Q And when would the e-mail or this document
25 have been actually viewed?

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1 information that we've already testified is
2 attorney-client privileged communications.

3 A Well, I was going to say, so the notice
4 and takedowns received from Mr. Grecco, they were
5 reviewed by the legal team specifically.

6 BY MR. ALEJANDRINO:

7 Q Is that typical?

8 A Typically, IP ops would have been
9 involved, but I think given the nature of the
10 circumstance, that's why it was escalated to the
11 legal team.

12 Q So in this instance, and I guess with
13 Mr. Grecco's photos, they were already by the legal
14 team?

15 A From my understanding.

16 Q Was there any role that an IP operator
17 played in this review?

18 A Not in these DMCA reviews, no.

19 Q So this was not -- this did not follow the
20 typical procedure that TikTok has for DMCA takedown
21 notices; is that fair to say?

22 A Yeah, given the nature of how these
23 reports were taken into the system.

24 Q And so you said the legal team is the one
25 who reviewed them and made the determination.

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1 Q So is it fair to say that you are not
2 familiar nor aware of the reasoning as to why
3 certain photos at issue were not removed?

4 A Other than saying that it didn't hit the
5 policy guidelines and that legal made that decision,
6 I can't speak further to that.

7 MR. ALEJANDRINO: I'm going to show you
8 what I'm marking as Plaintiff's Exhibit 4.

9 (Whereupon, Plaintiff's Exhibit Number 4
10 was marked for Identification.)

11 BY MR. ALEJANDRINO:

12 Q Do you see that here?

13 A I see Exhibit 4.

14 Q And what is this document?

15 A It's a Copyright Infringement Notice.

16 Q And can you see who this was e-mailed to?

17 A Copyright@tiktok.com.

18 Q Do you see when this e-mail was dated?

19 A March 20th, 2024.

20 Q And would that have been the same day that
21 it was received in the Gmail?

22 A In our operations if everything was
23 working perfectly, that is when we would have
24 received it.

25 Q Are you aware of when this was actually

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1 received?

2 A I'm not sure of the exact date.

3 Q Are you aware of when it was actually
4 viewed?

5 A I'm not sure of the exact date of when it
6 was viewed.

7 Q Do you know when or if this content was
8 removed?

9 A I don't know if the content was removed.

10 MR. ALEJANDRINO: I'm going to show you
11 what I'm marking as Plaintiff's Exhibit 5.

12 MR. KEYES: Counsel, I'm sorry. Exhibit
13 4, at least on my screen, I just saw one page,
14 but it looks like it's a multiple-page
15 document. Can we see what it is here?

16 MR. ALEJANDRINO: Absolutely.

17 MR. KEYES: So just for the record, this
18 appears to be a three-page e-mail with the date
19 of up at top of March -- well, in the e-mail
20 itself, yes, March 20th, 2024 at 10:48 p.m.
21 Thank you.

22 And you said that's Exhibit 4. What was
23 Exhibit 3?

24 MR. ALEJANDRINO: This one over here, the
25 previous.

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1 viewed or reviewed this e-mail?

2 A Is the question -- sorry -- asking if I
3 know or when it was?

4 Q Do you know when it was actually viewed?

5 A I don't know.

6 Q Do you know if this content was removed?

7 A Based on the URL, I can't tell.

8 MR. ALEJANDRINO: I can move on to the
9 next one. I'm going to be showing you what I
10 am marking as Plaintiff's Exhibit 6.

11 (Whereupon, Plaintiff's Exhibit Number 6
12 was marked for Identification.)

13 BY MR. ALEJANDRINO:

14 Q I will go ahead and scroll through the
15 document for you. It is three pages.

16 Do you know what this document is?

17 A It appears to be an e-mail copy of what
18 looks to be a Copyright Infringement Notice.

19 Q And who was this addressed to?

20 A The e-mail it was addressed to,
21 copyright@tiktok.com.

22 Q And can you tell me the date of the
23 e-mail?

24 A March 19th, 2024.

25 Q When was this received?

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1 A I don't know when it was received.

2 Q When was it viewed?

3 A I don't know when it was viewed.

4 Q Was it removed?

5 A I can't tell based on the URL if it was
6 removed or not.

7 MR. ALEJANDRINO: I'm now showing you what
8 I'm marking as Plaintiff's Exhibit 7.

9 (Whereupon, Plaintiff's Exhibit Number 7
10 was marked for Identification.)

11 BY MR. ALEJANDRINO:

12 Q I will once again scroll through with you.
13 It's also three pages.

14 What is this document?

15 A It appears to be an e-mail receipt or copy
16 for a Copyright Infringement Notice.

17 Q And who was this addressed to?

18 A It appears that the e-mail is
19 copyright@tiktok.com.

20 Q And can you tell me the date of this
21 notice?

22 A The notice says March 21st, 2024.

23 Q When was it received?

24 A I don't know.

25 Q When was it viewed?

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1 A I don't know.

2 Q Was it removed?

3 A Based on the URL, I can't tell if it was
4 removed or not.

5 Q Before I move to the next one, just a
6 question. Are you aware of which or how many -- I'm
7 sorry. Scratch that.

8 Are you aware of how many of the photos
9 were removed in this case?

10 A Can you be more specific to how you define
11 the photo?

12 Q Sure. Of the 22 photos at issue in this
13 case, are you aware of how many were removed?

14 A Not the photographs, no, I'm not aware of
15 how many were removed.

16 Q When you say "not the photographs," are
17 you aware of how many of the posts were removed or
18 taken down?

19 A Yes.

20 Q How many?

21 A There were eight in total that were
22 removed.

23 Q Of the 22?

24 A Of the 22, from the users themselves and
25 one was not removed from the user.

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1 MR. ALEJANDRINO: I'm going to show you
2 what I will be marking as Plaintiff's Exhibit
3 8.

4 (Whereupon, Plaintiff's Exhibit Number 8
5 was marked for Identification.)

6 BY MR. ALEJANDRINO:

7 Q I'll go ahead and scroll through the
8 document.

9 And what is this document?

10 A It is appears to be an e-mail receipt of a
11 Copyright Infringement Notice.

12 Q And who is it addressed to?

13 A The e-mail it was addressed to is
14 copyright@tiktok.com.

15 Q When is this e-mail dated?

16 A The e-mail is dated March 27th, 2024.

17 Q When was this received?

18 A I don't know.

19 Q When was it reviewed?

20 A I don't know.

21 Q Do you know if this post was removed?

22 A Based on the URL, I can't tell if it was
23 removed or not.

24 MR. ALEJANDRINO: I'm showing you what I'm
25 marking as Plaintiff's Exhibit 9.

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1 (Whereupon, Plaintiff's Exhibit Number 9
2 was marked for Identification.)

3 BY MR. ALEJANDRINO:

4 Q I will scroll through the document.
5 What is this document?

6 A It appears to be an e-mail copy of a
7 Copyright Infringement Notice.

8 Q And to whom was it addressed to?

9 A The e-mail says copyright@tiktok.com.

10 Q And the date?

11 A March 18th, 2024.

12 Q And when was this one received?

13 A I don't know.

14 Q When was it actually viewed?

15 A I don't know.

16 Q And do you know if this was removed or
17 not?

18 A Based on the URL, I can't tell if it was
19 removed or not.

20 MR. ALEJANDRINO: I'm now showing you what
21 I'm marking as Plaintiff's Exhibit 10.

22 (Whereupon, Plaintiff's Exhibit Number 10
23 was marked for Identification.)

24 BY MR. ALEJANDRINO:

25 Q I'll scroll through the document as well.

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1 And what is this document?

2 A It looks to be an e-mail copy of a
3 Copyright Infringement Notice.

4 Q And who is this addressed to?

5 A It's addressed to copyright@tiktok.com.

6 Q And when was this e-mail dated?

7 A Well, just to confirm, underneath
8 copyright department towards the top, it says
9 "Wednesday, 3/6/2024," but then there's another date
10 saying, "March 6th, 2024."

11 Q I'm sorry. You said up here it says
12 March 6th, 2024?

13 A Oh, my gosh. Those are the same dates.
14 Yes.

15 Q Do you know when this was received?

16 A I don't know.

17 Q Do you know when this would have been
18 viewed?

19 A I don't know.

20 Q And are you aware of whether this post was
21 removed?

22 A Based on the URL, I can't tell if it was
23 removed or not.

24 MR. ALEJANDRINO: I'm now showing you what
25 I'm marking as Plaintiff's Exhibit 11.

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1 (Whereupon, Plaintiff's Exhibit Number 11
2 was marked for Identification.)

3 BY MR. ALEJANDRINO:

4 Q And I will go ahead and scroll through
5 this one as well.

6 And what is this document?

7 A It looks to be an e-mail copy of a
8 Copyright Infringement Notice.

9 Q And can you tell me who this is addressed
10 to?

11 A It's addressed to copyright@tiktok.com.

12 Q And when would this e-mail have been
13 received?

14 A I don't know when the e-mail was received.

15 Q When was it actually viewed?

16 A I don't know when it was actually viewed.

17 Q Are you aware of whether it was removed or
18 not?

19 A Based on the URL, I can't tell if it was
20 removed or not.

21 Q So I do have about, I believe, 14 of these
22 left. So instead of just hammering you over the
23 head with that, I'm just going to ask: Is it fair
24 to say that the answers will be the same for every
25 single one of the takedown notices?

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[REDACTED]

22 BY MR. ALEJANDRINO:

23 Q Earlier we discussed when users are
24 notified that their content is being removed.

25 Were any of the users in this case

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1 notified of the DMCA takedown notices and removal of
2 their content?

3 A For the ones that removed the content
4 themselves, they wouldn't have received any
5 notification. I'm not sure what notification was
6 received to the piece of content that was impacted
7 that was irrelevant to this.

8 Q Was there any communications with those
9 users in this matter?

10 A Do you mind being a little bit more
11 specific?

12 Q Was there any -- let me think.

13 Did you have any communication with one of
14 the users that posted content that is at issue in
15 this case?

16 A So did I, Jemili Boutros, have any
17 communication with any of the users that uploaded
18 the content?

19 Q So you are here as a representative of
20 TikTok. So the answer should be TikTok, not you
21 personally.

22 A No worries.

23 So did TikTok have any communications with
24 the users that uploaded the content?

25 Q Correct.

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1 A No.

2 Q So does this mean none of the users that
3 their content was removed were notified?

4 A Content removed from TikTok?

5 Q Correct.

6 A So the question is: The content that
7 TikTok removed, were any of the users notified?

8 Q Yes.

9 A So there was one content that was impacted
10 by this from an irrelevant -- like another issue.
11 I'm not sure what communications they got. But any
12 time TikTok removes something, there is a form of
13 communication.

14 MR. ALEJANDRINO: I think this is a good
15 place to take a break. We can go off record.

16 (Lunch recess from 3:31 p.m. EST to 4:15
17 EST.)

18 MR. ALEJANDRINO: We can go back on the
19 record.

20 BY MR. ALEJANDRINO:

21 ■ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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1 was going over the takedown notices about
2 things that are not in evidence and on the
3 record, so I wanted to just go ahead and add
4 that into the record just to complete it.

5 So I'm going to go ahead and share my
6 screen. Give me a second. I know this is a
7 little tedious, so I apologize.

8 So I'm going to go ahead and show you what
9 I am marking as Plaintiff's Exhibit 12.

10 (Whereupon, Plaintiff's Exhibit Number 12
11 was marked for Identification.)

12 BY MR. ALEJANDRINO:

13 Q I will go ahead and scroll through it for
14 you to review. As you can see, it's two pages.

15 What is this document?

16 A It looks to be an e-mail copy of a
17 Copyright Infringement Notice.

18 Q And who was this addressed to?

19 A It was addressed to copyright@tiktok.com.

20 Q Is that TikTok's designated DMCA e-mail
21 address?

22 A Yes.

23 Q What is the date of this e-mail?

24 A The date reads as February 21st, 2024.

25 Q When was this e-mail received by TikTok?

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1 A I don't know.

2 Q When was this reviewed by TikTok?

3 A I don't know.

4 Q Was this content removed?

5 A I can't tell from this document.

6 MR. KEYES: Counsel, are you marking this
7 at an exhibit?

8 MR. ALEJANDRINO: Yes. I specified that
9 it will be marked as Plaintiff's Exhibit 12.

10 MR. KEYES: Okay. Thank you.

11 MR. ALEJANDRINO: Now I'm going to show
12 you what I'm marking as Plaintiff's Exhibit 13.

13 (Whereupon, Plaintiff's Exhibit Number 13
14 was marked for Identification.)

15 BY MR. ALEJANDRINO:

16 Q I will go ahead and scroll through. It is
17 a three-page document.

18 And can you tell me what this document is?

19 A It appears to be an e-mail copy of a
20 Copyright Infringement Notice.

21 Q Who was this addressed to?

22 A The e-mail that this was sent to was
23 copyright@tiktok.com.

24 Q Can you tell me the date of this e-mail?

25 A The date is listed as October 29th, 2023.

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1 Q And when would this e-mail have been
2 received by TikTok?

3 A I'm not sure when TikTok received this
4 specific e-mail.

5 Q When would they have reviewed this e-mail?

6 A I don't have that information.

7 Q And do you know if this one was removed?

8 A I can't tell based on the document itself.

9 MR. ALEJANDRINO: I will move on to what
10 I'm marking as Plaintiff's Exhibit 14.

11 (Whereupon, Plaintiff's Exhibit Number 14
12 was marked for Identification.)

13 BY MR. ALEJANDRINO:

14 Q I'll also scroll through this one. This
15 is also a three-page document.

16 Can you tell me what this document is?

17 A It appears to be an e-mail copy of a
18 Copyright Infringement Notice.

19 Q And to whom is this addressed?

20 A The e-mail this was sent to is
21 copyright@tiktok.com.

22 Q And when was this received by TikTok?

23 A I don't know when this was received by
24 TikTok.

25 Q When was it viewed by TikTok?

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1 A I'm not sure when this was viewed by
2 TikTok.

3 Q And was this content removed by TikTok?

4 A I can't tell based on what's shown in
5 front of me.

6 MR. ALEJANDRINO: I'm now going to show
7 you what I'm marking as Plaintiff's Exhibit 15.

8 (Whereupon, Plaintiff's Exhibit Number 15
9 was marked for Identification.)

10 BY MR. ALEJANDRINO:

11 Q I'll also scroll through this one. This a
12 two-page document.

13 Can you tell me what this document is?

14 A Do you mind scrolling down to the bottom?
15 Thanks.

16 Q Sure.

17 A It appears to be an e-mail for a DMCA
18 notice.

19 Q Who is this addressed to?

20 A It was addressed to copyright@tiktok.com.

21 Q And when was this one dated?

22 A October 13th, 2023.

23 Q When was this received by TikTok?

24 A I don't know.

25 Q When was it viewed by TikTok?

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1 A I don't know.

2 Q Was this content removed by TikTok?

3 A I can't tell based on what's in front of
4 me.

5 MR. ALEJANDRINO: I'm now going to show
6 you what I am marking as Plaintiff's Exhibit
7 16.

8 (Whereupon, Plaintiff's Exhibit Number 16
9 was marked for Identification.)

10 BY MR. ALEJANDRINO:

11 Q I will once again scroll.

12 What is this document?

13 A It appears to be an e-mail copy of a
14 Copyright Infringement Notice.

15 Q Who is it addressed to?

16 A It was address to copyright@tiktok.com.

17 Q Can you tell me the date of this e-mail?

18 A The date of the e-mail says March 12th,
19 2024.

20 Q And when was this received by TikTok?

21 A I'm not sure.

22 Q When would TikTok have viewed this e-mail?

23 A I don't know.

24 Q Was this content removed?

25 A I can't tell based on what's in front of

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1 me.

2 MR. ALEJANDRINO: I'm now going to show
3 you what I am marking as Plaintiff's Exhibit
4 17.

5 (Whereupon, Plaintiff's Exhibit Number 17
6 was marked for Identification.)

7 BY MR. ALEJANDRINO:

8 Q And I will scroll through this one as
9 well.

10 What is this document?

11 A It appears to be a copy of a Copyright
12 Infringement Notice.

13 Q And who is this addressed to?

14 A It was addressed to copyright@tiktok.com.

15 Q What is the date of this e-mail?

16 A The date is March 15th, 2024.

17 Q And on what date was this received by
18 TikTok?

19 A I don't know.

20 Q On what date was this viewed by TikTok?

21 A I don't know.

22 Q And was the content removed?

23 A I can't tell based on what's in front of
24 me.

25 MR. ALEJANDRINO: Now I'm going to show

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1 you what I'm marking as Plaintiff's Exhibit 18.

2 (Whereupon, Plaintiff's Exhibit Number 18

3 was marked for Identification.)

4 BY MR. ALEJANDRINO:

5 Q And I will scroll through this one as

6 well. It's a two-page document.

7 Can you tell me what this document is?

8 A It appears to be a copyright notice and

9 takedown e-mail copy.

10 Q Who was it e-mailed to?

11 A It was e-mailed to copyright@tiktok.com.

12 Q What is the date of the e-mail?

13 A October 13th, 2023.

14 Q And when was this received by TikTok?

15 A I don't know.

16 Q When was it viewed by TikTok?

17 A I don't know.

18 Q And was this content removed?

19 A I can't tell based on what's in front of

20 me.

21 MR. ALEJANDRINO: I'm now going to show

22 you what I'm marking as Plaintiff's Exhibit 19.

23 (Whereupon, Plaintiff's Exhibit Number 19

24 was marked for Identification.)

25

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1 BY MR. ALEJANDRINO:

2 Q I will scroll through this one as well.

3 It's a four-page document.

4 Can you tell me what this document is?

5 A It appears to be a Copyright Infringement
6 Notice copy of an e-mail.

7 Q To whom is it addressed to?

8 A It's addressed to copyright@tiktok.com.

9 Q What is the date of this e-mail?

10 A The date reads as February 12th, 2024.

11 Q When did TikTok receive this e-mail?

12 A I don't know.

13 Q When did TikTok view this e-mail?

14 A I don't know.

15 Q Was the content here removed?

16 A I can't tell based on what's in front of
17 me.

18 MR. ALEJANDRINO: I'm now going to show
19 you what I'm marking as Plaintiff's Exhibit 20.

20 (Whereupon, Plaintiff's Exhibit Number 20
21 was marked for Identification.)

22 BY MR. ALEJANDRINO:

23 Q I'll scroll through this one as well.

24 What is this document?

25 A It appears to be an e-mail copy of a

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1 Copyright Infringement Notice.

2 Q And who is it addressed to?

3 A Copyright@tiktok.com.

4 Q When is this e-mail dated?

5 A The date on this e-mail reads as

6 November 17th, 2023.

7 Q When was this received by TikTok?

8 A I don't know.

9 Q When would it have been viewed by TikTok?

10 A I don't know.

11 Q And is the content listed here removed?

12 A I can't tell based on what's in front of
13 me.

14 MR. ALEJANDRINO: Now I'm showing you what
15 I'm marking as Plaintiff's Exhibit 21.

16 (Whereupon, Plaintiff's Exhibit Number 21
17 was marked for Identification.)

18 BY MR. ALEJANDRINO:

19 Q And I will scroll through this one. It's
20 a four-page document.

21 Can you tell me what this document is?

22 A It appears to be an e-mail of a Copyright
23 Infringement Notice.

24 Q And who is this e-mail addressed to?

25 A To copyright@tiktok.com.

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1 Q When was this e-mail dated?

2 A It reads as February 28th, 2024.

3 Q When was the e-mail received?

4 A I don't know.

5 Q When was it viewed?

6 A I don't know.

7 Q Was the content removed?

8 A I can't tell based on what's in front of
9 me.

10 MR. ALEJANDRINO: I'm now showing you what
11 I'm marking as Plaintiff's Exhibit 22.

12 (Whereupon, Plaintiff's Exhibit Number 22
13 was marked for Identification.)

14 BY MR. ALEJANDRINO:

15 Q And I will scroll through this one.

16 What is this document?

17 A This document appears to be a Copyright
18 Infringement Notice.

19 Q And who was this e-mailed to?

20 A This was e-mailed to copyright@tiktok.com.

21 Q When was this e-mail received?

22 A I don't know when the e-mail was received.

23 Q When was it viewed?

24 A I don't know when it was viewed.

25 Q Was the content here removed?

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1 A I don't know if the content here was
2 removed.

3 MR. ALEJANDRINO: I'm now showing you what
4 I'm marking as Plaintiff's Exhibit 23.

5 (Whereupon, Plaintiff's Exhibit Number 23
6 was marked for Identification.)

7 BY MR. ALEJANDRINO:

8 Q I'm going to scroll through the document.
9 What is this document?

10 A It appears to be an e-mail copy of the
11 Copyright Infringement Notice.

12 Q And who was this e-mailed to?

13 A This was e-mailed to copyright@tiktok.com.

14 Q What is the date on this e-mail?

15 A The date reads on this e-mail as
16 November 3rd, 2023.

17 Q What date was this e-mail received?

18 A I don't know.

19 Q What date was this e-mail viewed?

20 A I don't know.

21 Q Was the content removed?

22 A I don't know based on what's in front of
23 me.

24 MR. ALEJANDRINO: I'm now showing what you
25 I'm marking as Plaintiff's Exhibit 24.

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1 (Whereupon, Plaintiff's Exhibit Number 24
2 was marked for Identification.)

3 BY MR. ALEJANDRINO:

4 Q I will likewise scroll through the
5 document.

6 What is this document?

7 A It appears to be an e-mail copy of a
8 Copyright Infringement Notice.

9 Q And who is it addressed to?

10 A It is addressed to copyright@tiktok.com.

11 Q When is this dated for?

12 A The date reads on this document as
13 October 24th, 2023.

14 Q When was this received?

15 A I don't know.

16 Q When was it viewed?

17 A I don't know.

18 Q And was the content removed?

19 A I can't tell based on what's in front of
20 me.

21 MR. ALEJANDRINO: I'm now showing you what
22 I'm marking as Exhibit 25.

23 (Whereupon, Plaintiff's Exhibit Number 25
24 was marked for Identification.)

25

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1 BY MR. ALEJANDRINO:

2 Q I will scroll through this document as
3 well. What is this document?

4 A It appears to be an e-mail copy of a
5 Copyright Infringement Notice.

6 Q And who is it addressed to?

7 A It's addressed to copyright@tiktok.com.

8 Q And when is this e-mail dated for?

9 A The date on this e-mail reads as
10 October 20th, 2023.

11 Q When was the e-mail received by TikTok?

12 A I don't know.

13 Q When was it viewed by TikTok?

14 A I don't know.

15 Q And was this content removed?

16 A Based on what's in front of me, I can't
17 make that judgment.

18 MR. ALEJANDRINO: I'm now going to show
19 you what I am marking as Plaintiff's Exhibit
20 26.

21 (Whereupon, Plaintiff's Exhibit Number 26
22 was marked for Identification.)

23 BY MR. ALEJANDRINO:

24 Q I will scroll through this document.

25 Can you tell me what this document is?

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1 A It appears to be an e-mail copy of a
2 Copyright Infringement Notice.

3 Q And to whom is it addressed to?

4 A It's addressed to copyright@tiktok.com.

5 Q When is it dated for?

6 A The date on the e-mail reads as
7 December 20th, 2023.

8 Q And when was it received by TikTok?

9 A I don't know.

10 Q When was it viewed by TikTok?

11 A I don't know.

12 Q Was the content listed removed?

13 A I can't make that judgment based on what's
14 in front of me.

15 MR. ALEJANDRINO: I'm going to show you
16 what I'm marking as Plaintiff's Exhibit 27.

17 (Whereupon, Plaintiff's Exhibit Number 27
18 was marked for Identification.)

19 BY MR. ALEJANDRINO:

20 Q I will scroll through this document as
21 well.

22 Can you tell me what this document is?

23 A It appears to be an e-mail copy of a
24 Copyright Infringement Notice.

25 Q And who is it e-mailed to?

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1 A The e-mail it was sent to is
2 copyright@tiktok.com.

3 Q And what date is listed on this e-mail?

4 A The date reads as November 27th, 2023.

5 Q When did TikTok receive this e-mail?

6 A I don't know.

7 Q When did TikTok view it?

8 A I don't know.

9 Q And was the content listed removed?

10 A Based on what's in front of me, I can't
11 make that judgment call.

12 Q I'm going to go ahead and stop sharing my
13 screen. That is all for those.

14 I'm now going to go back to the
15 monetization and Creator Program that we discussed
16 earlier.

17 I know you had testified that some of the
18 users at issue in this case are part of the Creator
19 Program, correct?

20 A Yes.

21 Q I want to go ahead and go through the
22 users to see which of those are admitted into the
23 Creator Program.

24 So the first user is bellamy227. Do you
25 know if TikTok has an agreement to admit that user

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1 Q So aside from that assumption, do you have
2 any evidence supporting the argument that plaintiff
3 does not own these works?

4 A I think it's a valid concern because the
5 person who takes the photo is the one who has the
6 copyright ownership. However, the one who hires for
7 work then owns that piece of material. So I think
8 any supportive documentation to show for either case
9 would help make that assessment.

10 Q But do you have any evidence showing that
11 it's not owned by the plaintiff in this case?

12 A I don't have evidence.

13 Q I want to go up to number 5. Can you read
14 that for me?

15 A Yes.

16 "Plaintiff's claims are barred, in whole
17 or in part, because of any alleged infringement by
18 defendant or defendant's users constituents --"
19 Wait. Did I say that right? Sorry.

20 Q Constitutes.

21 A Oh, my gosh. My apologies.

22 "-- constitutes fair use under 17 U.S.C."
23 I don't know how to pronounce that symbol -- "107."

24 Q What is TikTok's basis for the
25 determination of the fair use argument?

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1 MR. KEYES: Objection, calls for a legal
2 conclusion.

3 Go ahead and answer, Ms. Boutros, if you
4 can.

5 A Do you mind repeating the question?

6 BY MR. ALEJANDRINO:

7 Q What is TikTok's basis for asserting fair
8 use?

9 MR. KEYES: Same objection.

10 A So TikTok's assessment is based on what is
11 within the DMCA, Digital Millennium Copyright Act.

12 The fair use is the word "declaration" or
13 "outline" in there is what TikTok leans on.

14 Q What specifically is TikTok leaning on?

15 A Within fair use, it's my understanding
16 that there's four criterias for the work to be
17 considered for that.

18 Q And TikTok feels that some of these
19 content that were left up fall into that category?

20 A Well, legal made that assessment.

21 Q Understood.

22 I am now going to go to 11. If you can
23 read that one for me as well.

24 A "Plaintiff's claims are barred, in whole
25 or in part, because defendant did not and does not

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1 have a direct financial interest in or to the
2 alleged copyright infringement."

3 Q Is it your testimony that TikTok did not
4 receive any financial benefit from the usage of any
5 of the photos in this lawsuit?

6 A My testament is that TikTok did not
7 generate any funds.

8 Q So they did not receive any financial
9 benefit here?

10 A No.

11 Q I'm going to go to 14. If you can read
12 that one for me.

13 A "Plaintiff's claims are barred, in whole
14 or in part, to the extent any third-party use of
15 subject photographs was pursuant to a valid license,
16 whether an implied or express license."

17 Q Did or does TikTok itself have a license
18 to use any of these photos?

19 A To my understanding, no, TikTok does not
20 have a license to use these photos.

21 Q And does TikTok have any reason to believe
22 that any of the 24 users in this case had a license
23 to use the photo?

24 A To my understanding -- well, it's hard to
25 make that judgment call because I don't know the

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1 answer to that.

2 Q Does TikTok request or inquire from the
3 user licensing when a DMCA takedown notice is
4 submitted?

5 A When a DMCA notice is submitted, the
6 person who is being reported against does not have
7 the opportunity, in that portion of the workflow, to
8 provide that information.

9 Q So to clarify, TikTok does not ask the
10 user if they had a license but, rather, just makes
11 its own fair use assessment or an exception --
12 copyright exception in deciding whether or not to
13 remove the content?

14 MR. KEYES: Objection, compound.

15 But go ahead an answer if you can,

16 Ms. Boutros.

17 A I would say there's an opportunity for the
18 reported user to showcase a licensing agreement in
19 the process of an appeal because that is when
20 they've been communicated that their content's been
21 removed -- rather than during the initial review
22 that was submitted from the rights owner, and that
23 information wasn't provided.

24 BY MR. ALEJANDRINO:

25 Q And did any of the users in this case

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1 more monetary gain is met, and I don't think that's
2 an accurate statement to be making.

3 Q So what determines the monetary gain by
4 TikTok?

5 MR. KEYES: Objection, asked and answered.

6 But go ahead and answer again if you can,
7 Ms. Boutros.

8 A To the best of my ability, knowing how
9 TikTok generates money, it's through advertisements
10 or partnership brand deals, and maybe through
11 e-commerce channels likes TikTok Shop.

12 BY MR. ALEJANDRINO:

13 Q When you say "advertisements," where are
14 these advertisements located?

15 A So advertisements, they typically have a
16 sticker in the video where it says "sponsored" or
17 "promoted content."

18 Q And so if the content is sponsored, does
19 that directly correlate to the Creator Program?

20 A I don't think so.

21 Q So how does TikTok determine when to
22 sponsor content?

23 A I don't have the answer to that.

24 And to be clear, TikTok doesn't sponsor
25 content on their own merit. The user who wants to

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1 removed due to an unrelated issue.

2 Q So of these eight, they were removed on
3 their own, not by TikTok?

4 A Correct.

5 Q So TikTok did not remove any of the 22
6 photos at issue here?

7 A Well, I don't know if these URLs had the
8 22 photos, but what I can say, again, is that seven
9 of these eight were removed by the users themselves
10 and one of them was impacted because of an unrelated
11 issue.

12 Q Do you mean like -- for that unrelated
13 issue, just to clarify, do you mean TikTok removed
14 it for something -- for another reason not to do
15 with copyright or intellectual property?

16 A I just know there was an unrelated issue
17 to this specific case as to why it was removed, but
18 for IP reasons or like those details, I'm not sure.

19 Q Was it removed by TikTok or the user?

20 A I believe it was removed by TikTok.

21 Q So TikTok only removed one of the eight
22 for an unrelated reason, and the other remaining
23 ones were removed on their own?

24 A They were removed by the users who
25 uploaded them themselves.

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1 A "Identify all employees or persons
2 involved in reviewing the DMCA takedown notices and
3 any subsequent responsive actions taken therein."

4 Q And if you want to read the portion of the
5 answer starting with "subject to"?

6 A Sure.

7 "Subject to and without waiving the
8 foregoing objections, defendant incorporates its
9 objections and response to interrogatory number 12
10 and adds that its counsel has reviewed the allegedly
11 infringing uses of the work. No subsequent
12 responsive actions have been taken because the
13 allegedly infringing uses of the work qualify as
14 fair use."

15 Q And what does a fair classification mean?

16 A A fair of a classification mean?

17 Q What does a fair classification mean or
18 qualification?

19 A Did I read that on the document, a fair
20 qualification?

21 Q It qualifies as fair use.

22 A So the question is: How does this qualify
23 as fair use?

24 Q Yes.

25 MR. KEYES: Objection, asked and answered.

2 Q You can answer the question.

5

- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]

18 MR. ALEJANDRINO: I think this is a good
19 place to take a break. I'm just going to
20 review my notes, see if I have anymore
21 additional questions.

23 (Recess from 5:20 p.m. EST to 5:34 p.m.
24 EST.)

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[REDACTED]

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[REDACTED]

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[REDACTED]

12 Q We did go through all the takedown notices
13 and the exhibits that were sent to TikTok.

14 Just to clarify, your testimony is that
15 you did not know when any of those notices were
16 actually received or reviewed?

17 A Correct.

18 Q And you also don't know if the images
19 themselves were removed?

20 A I know there were a number of images. I
21 also know that there were some videos that weren't
22 removed.

23 Q Do you know the specific content that was
24 removed?

25 A Not off the top of my head.

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1 Q And the ones that were not removed and
2 remained up, you don't know why they were determined
3 to be fair use or an exception to the copyright
4 infringement?

5 MR. KEYES: Objection, asked and answered.
6 Mischaracterizes prior testimony, too.

7 But go head and answer if you can.

8 A Yeah, legal made that assessment.

9 BY MR. ALEJANDRINO:

10 Q Would you say that knowing when a takedown
11 notice was received and reviewed would be important
12 information to know?

13 A It is information that should be included
14 in a report, yes.

15 Q Do you know why you were designated as
16 TikTok's 30(b)(6) corporate representative?

17 A Yes.

18 Q Why is that?

19 A I'm someone who oversees and is in
20 operations, so I would be able to speak to the
21 details of our operations.

22 Q Along those lines, what exactly is your
23 scope at TikTok?

24 A My scope includes reviewing notice and
25 takedown reports themselves. I also do risk